

August 23, 2004

Jean Olin
Deputy City Attorney
City of Miami Beach, Office of City Attorney
1700 Convention Center Drive
Miami Beach, FL 33139

RE: REQUEST FOR ADVISORY OPINION 04-135

Dear Ms. Olin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 18, 2004 and rendered its opinion based on the facts stated in your request.

As Deputy City Attorney, you asked for clarification of the term "indirect" as provided within the Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 (w) "Prohibition on acceptance of travel expenses from county vendors." This subsection provides,

Notwithstanding any other provision of this section, no person included in subsections (b)(1)(Mayor and Commissioners), (b)(5)(departmental personnel) or (b)(6) (employees) shall accept, **directly or indirectly**, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission. The provisions of this subsection (w) shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.

The provision expressly prohibits County and city officials and personnel from accepting, directly or indirectly, any

travel expenses from existing or prospective vendors, contractors or service providers. However, the provision provides for a waiver by the Board of County Commissioners, or in the case of municipal personnel, by the Municipal Commission or Council.

You asked whether the City of Miami Beach would be in compliance with Section 2-11.1 (w) if existing or prospective vendors, bidders or proposers were to provide travel expenses to the City of Miami Beach, rather than to specifically identified personnel. In other words, may a contractor pay for a City of Miami Beach employee to travel on official business, if the expenses were provided to the City Manager for example, who would then decide which City personnel should attend.

The Ethics Commission determined that the term “indirectly” would cover examples such as the one described in the instant request. The difference between having a vendor donate travel expenses to the City rather than to specific personnel does not remove the “indirect” element. The fact is the expenses, ultimately are being provided to the City and accepted for travel by City officials and personnel. Therefore, even if a vendor has in no manner earmarked the travel donation for specified City personnel, employees selected by City management to travel with these funds have *indirectly* accepted said travel expenses in contravention to this provision.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director